

MANDATE

S.D.N.Y.-N.Y.C.
21-mc-100
Hellerstein, J.

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 13th day of December, two thousand eleven,

Present:

Peter W. Hall,
Gerard E. Lynch,
Denny Chin,
Circuit Judges.

**USDC SDNY
DOCUMENT
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DOC #:** _____
DATE FILED: January 18, 2012

Hector Flamenco,

Plaintiff-Appellant,

Christopher Cirino, *et al.*,

Plaintiffs,

v.

11-2781-cv

2 World Trade Center, L.L.C., *et al.*,

Defendants-Appellees,

City of New York, *et al.*,

Defendants.

Appellant, *pro se*, moves for *in forma pauperis* status. It is hereby ORDERED that the motion is denied as unnecessary, as such status had already been granted by the district court. However, this Court has determined *sua sponte* that it lacks jurisdiction over this appeal. To the extent the order is construed as an order within the larger World Trade Center case, it is a non-final order that is not immediately appealable. *See* 28 U.S.C. § 1291; *Coopers & Lybrand v. Livesay*, 437 U.S. 463, 467 (1978). To the extent it is construed as terminating a separate proceeding, the notice of appeal was not timely filed. *See* Fed. R. App. P. 4(a)(1)(B). In any event, the Court notes that appellant has never filed a complaint in the district court. He remains free to file a complaint, move for *in forma pauperis* status, and request that the summons and complaint be served by the United States

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Marshals. *See Nagy v. Dwyer*, 507 F.3d 161, 164 (2d Cir. 2007). Accordingly, upon due consideration, it is hereby further ORDERED that the appeal is dismissed.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk

Catherine O'Hagan Wolfe



A True Copy

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit

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Catherine O'Hagan Wolfe

